UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,806	11/19/2003	Bruce Lewolt	116948-010100	8650

7590   03/16/2010

Attn: Steve P. Hassid
GREENBERG TRAURIG, LLP
Suite 400E
2450 Colorado Avenue
Santa Monica, CA 90404

EXAMINER
MUSSELMAN, TIMOTHY A

ART UNIT	PAPER NUMBER
3715	

MAIL DATE	DELIVERY MODE
03/16/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/031,806	LEWOLT, BRUCE
	Examiner	Art Unit
	TIMOTHY MUSSELMAN	3715

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 January 2010*.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6,8-17,19-53,55-66 and 68-106* is/are pending in the application.
   4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-6,8-17,19-53,55-66,68-106* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a)☐ All   b)☐ Some *   c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____ .

DETAILED ACTION

Status of Claims

In response to applicant's communication filed 1/26/2010, claims 1-6, 8-17, 19-53, 55-66, and 68-106, are

pending. Claims 7, 18, 54, 67, and 107-108 have been cancelled.

Claim Rejections - 35 USC § 103

The following is a quotation of the relevant portion of 35 U.S.C. 103 that forms the basis
for the rejections made in this section of the office action;

> (a)   A patent may not be obtained though the invention is not identically disclosed or
>
> described as set forth in section 102 of this title, if the differences between the subject
>
> matter sought to be patented and the prior art are such that the subject matter as a
>
> whole would have been obvious at the time the invention was made to a person having
>
> ordinary skill in the art to which said subject matter pertains.

Claims 1-4, 8-9, 16, 19, 22, 37, 48-51, 56-58, 65, 68, 71, 88, and 100-106 are rejected under 35 U.S.C.

103(a) as being unpatentable over Griswald et al. (US 5,890,911) in combination with Wadahama

(US 6,024,577).

Regarding claims 1, 48, 100, and 105 Griswald discloses a study aid system comprising a person

inputting materials for studying, wherein the material is processed and queries are generated. See col. 9:

1-10.

Griswald discloses wherein the user designates material to the system, including designating portions of

the designated material which are questions and portions which are answers. See col. 25: 1-10. Note that

the questions are in the form of questions. Also, applicant claims wherein the user designates a portion of

the material as question/answer, and then further designates a portion of the designated material as the answer. Then the computer determines the question as being the material designated the first time but not the second time. Examiner notes that in this fashion the user has actually designated both the question and the answer, because the question is distinctly identified as material which was designated the first time by the user but not the second time. Thus, in practice, the user designates the question and the answer, as does the system of Griswald. The minor variation in how the user designates which material is for questions and which is for answers does not functionally effect the operations of the system, and thus would be an arbitrary design variation within the abilities of one of ordinary skill in the art. Griswald discloses wherein the user is presented with the questions and answers, and can accept, reject, or modify the questions and answers. See col. 29: 5-20. Griswald discloses wherein the user can be queried with accepted generated questions, and the system can present additional questions pertaining to areas in which the user has a weaker understanding. See col. 14: 20-25.

Griswald does not disclose wherein the user determines whether or not the question was correct, and the system presents the user with remedial material in which the user indicates that they have a weaker understanding. However, this concept is established in the art of education systems. Consider the computer based training system of Wadahama, wherein it is disclosed in fig. 5 that the user selects an understanding level in relation to presented materials, and it is disclosed in col. 6:63 – col. 7:30 wherein the users are presented remedial material based upon this indicated understanding. It would have been obvious to one of ordinary skill in the art at the time of the invention to include such a scheme in other systems as well, because the methodology is established, and the transference of this concept to other systems as an additional component would not *expand* the concept in any way, and no unexpected results would ensue from the transference.

Regarding claims 2-4 and 49-51, Griswald discloses wherein the study material comprises electronic visually based files containing digital text. See col. 19: 55-57.

Regarding claims 8, 37, 56, and 88, Griswald discloses wherein the user/system determines a general knowledge item for learning present in the designated material and determines a question for querying the student regarding this item. See col. 9: 1-10.

Regarding claims 9, 57, and 58, Griswald discloses indicating a portion of the designated material for the question, and a portion for the answer, using said indicated question to create a query, and storing said query for future use (thus the generated query is pre-processed before a user sees it). See col. 23: 1-42. Griswald discloses wherein the user and the system can generate more questions. See col. 9: 1-11.

Regarding claims 16 and 65, Griswald further discloses querying said student according to information provided by said student via an evaluation of prior query performance. See col. 13: 55-69.

Regarding claims 19 and 68, Griswald discloses wherein the user evaluates the queries as to difficulty level of the queries. See col. 13: 55-67.

Regarding claims 22 and 71, Griswald discloses designating back-up information complementing the initial designated material and providing greater background for exhibitions/queries presented to the user. See col. 11: 7-29.

Regarding claims 100-104, Griswald discloses associating a unique title with said designated material. See col. 9: 1-10. Note that the retrieval of the selected material from the memory would require unique identification and also numerical priority.

Regarding claim 106, Griswald discloses providing a plurality of learning templates by which new information may be learned, and a user assigning one of said templates to the designated material. See col. 23: 34-41.

Claims 5-6, 20-21, 52-53, and 69-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griswald et al. (US 5,890,911) in combination with Wadahama (US 6,024,577) and Stuppy (WO 98/13807).

Regarding claims 5-6 and 52-53, Griswald does not disclose wherein the electronic text is scanned by a scanner. However, this is very common. Consider the computer based training system (CBT) of Stuppy, which discloses this concept on pages 23: 15-16. One of ordinary skill in the art would have been motivated to use scanners in other systems as well, because doing so would not expand on the concept as disclosed by Stuppy, i.e. scanners are for scanning and digitizing text.

Regarding claims 20-21 and 69-70, Griswald discloses wherein the further interaction with the system is based upon the user's responses to the queries (or evaluations thereof) as described above, but not dislcose wherein the system determines a type of learner that the student is and re-queries the student according to this determined type. However, this is a common feature of CBT systems, and is disclosed by Stuppy on page 22: 10-15. It would have been obvious to one of ordinary skill in the art at the time of the invention to include such established features in other systems as well, in order to provide the established improvement of adapting the presented material to a user's preferred learning style.

Claim 55 is rejected under 35 U.S.C. 103(a) as being unpatentable over Griswald et al. (US 5,890,911) in combination with Wadahama (US 6,024,577) and GOOGLE (www.google.com).

Regarding claim 55, Griswald discloses the automatic selection of query material in col. 9: 1-10, but fails to teach of generating the query based on a keyword or phrase. However, the website GOOGLE teaches of solving the problem of selecting items from a large set of material, and teaches of doing so by the use of key word and phrase searching. See the google website at www.google.com. It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the key word/phrase techniques of GOOGLE to search through the material in the method of Griswald, in order to provide an easy manner to locate relevant material.

Claims 10-15, 17, 59-64, and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griswald et al. (US 5,890,911) in combination with Wadahama (US 6,024,577) and Ho et al. (US 6,139,330).

Regarding claims 10-11, 14, 59-60, and 63, Griswald discloses a system that meets all of the limitations as described above with regard to claims 1 and 48, but fails to explicitly teach of indicating a summary question after determining a plurality of questions, and indicating how the summary question relates to the plurality of questions. However, Ho teaches of a computer based educational system that teaches of using summaries. See col. 3: 39-48. It would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize the summary technique of Ho, in the system of Stuppy, so as to improve the product by allowing for review of questions already presented.

Regarding claims 12 and 61, determining the exact number of questions would be an arbitrary design choice well within the abilities of one of ordinary skill in the art.

Regarding claims 13 and 62, Griswald determines wherein the questions are machine defined. See col. 9: 1-10.

Regarding claims 17 and 66, Griswald further discloses prioritization of questions according to the likelihood of being on a specific test. See col. Note that the steps described are iterative. Thus, the instructional material will always be prioritized according to the test that is to be taken pertaining to said instructional material. See col. 13: 39-66.

Regarding claims 15 and 64, Griswald further discloses in col. 13: 39-54 wherein the user may See paragraph specify the number of questions asked.

Claims 34-36 and 85-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griswald et al. (US 5,890,911) in combination with Wadahama (US 6,024,577) and Sonnenfeld (US 6,112,049).

Regarding claims 34-36, and 85-87, Griswald discloses exchanging information over a computer network as described in col. 20: 1-2, there is no teaching wherein the query can be shared with a second student and of limiting those with whom the query is shared. However, Sonnenfeld discloses a CBT that teaches of these features. See col. 5: 48-50. Note that in order for a test (query set) to have an average, high, and low score, the queries would have to be shared. Additionally, note that the sharing is limited to the test takers. It would have been obvious to one of ordinary skill in the art at the time of the invention to

use the query sharing method of Sonnenfeld in the system of Griswald, in order to improve the product in

a manner known in the art as established by at least Sonnenfeld, to maximize efficiency by providing the

same information to students at the same point in a program.

Claims 23-26 and 72-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griswald et

al. (US 5,890,911) in combination with Wadahama (US 6,024,577) and the Science Daily article

"Study On Student Cheating Finds Profs Make a Difference".

Regarding claims 23-26 and 72-75, Griswald discloses all of the features of parent claims 1 and 48 as

described above, including the accumulation of information, but there is no teaching of accumulating

multiple student ratings of the material according to a likelihood of being on specific tests [claims 23-26,

72-75]. However, according to the Science Daily article entitled "Study On Student Cheating Finds Profs

Make a Difference", students providing advanced knowledge of information that is likely to be on tests is

not uncommon. See page 1, about half way down the page. It would have been obvious to one of

ordinary skill in the art at the time of the invention to include with the other accumulated data stored in the

system of Griswald, student knowledge of the likelihood of questions to appear on particular tests,

because doing so is a common practice and the mere automation of a process does not in and of itself

render the process patentable.

Claims 27-29, 31, 76-80, and 82 are rejected under 35 U.S.C. as being unpatentable over Griswald

et al. (US 5,890,911) in combination with Wadahama (US 6,024,577) and Lotvin (US 5,907,831).

Regarding claims 27-29, 31, 76-80, and 82, Griswald discloses all of the features of parent claims 1 and

48 as described above, but fails to teach of providing entertainment/advertisements being provided

subsequent to said query when the query is the final query in a group of queries, or after a *designated*

period of time determined by another person. However, Lotvin teaches of an educational computer

system in which advertisement is presented to the user. See col. 2: 20-24. Note that the designated time

as per claims 77-78 is "as the child uses the system", and said time is selected by the parent (i.e. another

person). Note that advertisements are generally entertainment, and thus no distinction will be made

between the two in this OA. It would have been obvious to one of ordinary skill in the art at the time of the

invention to utilize the advertising/entertainment aspects of Lotvin in the system of Griswald (anywhere,

including after a set of queries) to recuperate operating costs, and to store advertisement data in the user

profiles of the students of Stuppy, in order to better target the advertisements so as to recuperate system

operating costs, thus improving the system in a manner already established in the art as taught by Lotvin.

Claims 30, 32-33, 81, and 83-84 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Griswald et al. (US 5,890,911) in combination with Wadahama (US 6,024,577) and Lotvin (US

5,907,831) and also Kesel (US 5,822,744).

Regarding claims 30, 32-33, 81, and 83-84, Griswald/Lotvin disclose all of the features of parent claims

30, 32, 81, and 83 as described above, including the providing of advertisement/entertainment. However,

there is no teaching of rating of said advertisement/entertainment by the students, said rating indicating

appeal of the advertisement/entertainment as well as products or services offered by said entertainment.

However, Kesel discloses that it is common for systems with advertisement/entertainment to include

rating systems for marketing purposes. See col. 2: 5-15. It would have been obvious to one of ordinary

skill in the art to include the common and well known rating system as described by Kesel, in the system

of Griswald, in order to allow for marketing feedback and targeted advertisements, in order to increase

advertising revenue to recover operating costs of the system, thus improving the system in a manner

already established in the art as taught by Lotvin.

Claims 38-40 and 89-92 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griswald et al. (US 5,890,911) in combination with Wadahama (US 6,024,577) and Cook et al. (US 5,727,950).

Regarding claims 38-40 and 89-92, Griswald discloses all of the features of parent claims 37 and 88 as described above, but fails to teach of encryption to limit the access to the coursework to the student. However, Cook teaches of a networked CBT that includes this feature. See col. 22: 61-68. Note that all of the features of claims 39-40 and 91-92 are standard and extremely well known encryption methods and are referred to in the citation. It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the encryption of Cook in the system of Griswald, in order to improve the system as is established in the art by protecting the student data.

Claims 41-43 and 93-95 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griswald et al. (US 5,890,911) in combination with Wadahama (US 6,024,577) and Stuppy (WO 98/13807), and Sonnenfeld (US 6,112,049), Lotvin (US 5,907,831), Kesel (US 5,822,744), and the Science Daily article "Study On Student Cheating Finds Profs Make a Difference".

Regarding claims 41 and 93, these claims are a composite of claims 1-3, 6, 9, 17-19, 22-24, 27, and 31-36, with the exception of the limitation of providing a machine generated hint when student requests one. Examiner takes OFFICIAL NOTICE that the providing of hints is old and well known in educational systems, and that it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize hints in the system of Griswald to guide students along a learning path. Note the user determines the correctness incorrectness of asked questions in the original designation process.

Regardaing claims 43 and 95, applicant in directed to the rejection of claim 37.

Regarding claims 42 and 94, Griswald discloses wherein the student can override any preference to study all questions equally. See col. 13: 10-55.

Claims 44-47 and 96-99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griswald et al. (US 5,890,911) in combination with Wadahama (US 6,024,577) and Stuppy (WO 98/13807), and Sonnenfeld (US 6,112,049), Lotvin (US 5,907,831), Kesel (US 5,822,744), and the Science Daily article "Study On Student Cheating Finds Profs Make a Difference" and Cook et al. (US 5,727,950).

Regarding claims 44 and 96, applicant is directed to the rejection of claim 38.

Regarding claims 45 and 97, Griswald discloses pre-designed templates that have built in functions to enhance learning and to help a student study, wherein the material designated to be learned is placed into the template. See col. 23: 34-41. Griswald further discloses allowing the student to select which information to keep active in the students memory. See p. 13: 41-68. The information selected by the student has been selected in order to keep it active in the students memory, at least for the duration of the educational process, because if it were not, it would not have been selected. Griswald further discloses querying said student at defined time intervals selected by the student. See col. 13: 55-68, and note that since the process described here is iterative, the student is the one who ultimately decides when the next set of queries is received (e.g. after completion of the previous set). Griswald further discloses archiving information studied by the student so that it can be represented to the student later. See col. 14: 1-10. Although Griswald discloses using information from queries to adjust future queries for the student, there is no teaching wherein the queries include information about questions that were on a specific test.

However, this is an obvious variation of Griswald in view of the Science Daily article as described with reference to claim 25. Griswald also additionally fails to teach of using colors to designate the material selected by the student. However, Cook teaches of using colors to specify various differences in an educational program. See col. 31:60 – col. 32:3. It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the coloring of Cook in the system of Griswald in order to clearly separate different areas of the educational material, because highlighting is extremely well known in the art, and would not produce any unexpected results if implemented in the system of Griswald.

Regarding claims 46 and 98, the creation of a list of questions regarding what questions were on a test (i.e. information students who take the class in the future should learn) and sharing it with other selected students is rejected in the same manner as claims 25-26. The limitation of allowing the students to select what they want to keep active in their memory and time intervals for queries has already been rejected in parent claim 45.

Regarding claims 47 and 99, Griswald discloses prompting the student to try to associate first information with second information that the student learned previously. See col. 13: 39-68. Note that the process described is *remedial* and iterative, which is to say that some of the questions are related to previous questions the student missed, and the asking of these questions is a prompt to remember previously presented material. Griswald further discloses said student selecting key information in a sentence or paragraph selected by the student. See col. 23: 43-53. Griswald does not disclose summary questions, but this is obvious as described in regard to claim 10 above. Griswald further discloses recording, learning, and cataloging information, including when it was delivered and what it was. See col. 14: 15-25. Griswald fails to teach wherein the information consists of jokes or stories. However, Cook teaches of stories and jokes within an educational system. See col. 13: 20-30. It would have been obvious to one with ordinary skill in the art at the time of the invention, to include the entertainment

aspects of Cook in the system of Griswald, in order to keep the student from burning out. It is old and well known in the art to play background music while studying, and the inclusion of background music in the system of Griswald would not produce any new or unexpected results over the playing of background music in any other studying situation, and this would have been a design variation well within the abilities of one of ordinary skill in the art.

Response to Arguments

Applicant's remarks dated 1/27/2010 have been fully considered. Applicant's arguments are persuasive regarding the failure of Griswald to disclose wherein the user indicates their own understanding level and material is presented as a result of that indication (i.e. weaker understanding brings remedial material). This argument pertains indirectly to all claims. The previous rejections are withdrawn, and the finality of the previous office action is removed. New art has been found and the claims are rejected as described above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TIMOTHY MUSSELMAN whose telephone number is (571)272-1814. The examiner can normally be reached on Mon-Thu 6:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571)272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T.M./ - Examiner Art Unit 3715

/XUAN M. THAI/
Supervisory Patent Examiner, Art Unit 3715